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7 CLRB Hanson Industries, LLC d/b/a Industrial
8 Printing, and Howard Stern, on behalf of
9 themselves and all others similarly situated,

10 Plaintiffs,
11 v.

12 Google Inc.,

13 Defendant.

14 NO. C 05-03649 JW

15 **ORDER TO SHOW CAUSE WHY THE
16 CASE SHOULD NOT BE REMANDED
17 FOR LACK OF JURISDICTION**

18 On September 12, 2005, Defendant Google, Inc. (“Defendant”) removed this action pursuant
19 to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d) (“CAFA”). Under CAFA, a district
20 court has “original jurisdiction of any civil action in which the matter in controversy exceeds the
21 sum or value of \$5,000,000, exclusive of interest and costs, and [the action] is a class action in
22 which the parties satisfy, among other requirements, minimal diversity.” Abrego Abrego v. The Dow Chemical Co., 443 F.3d 676, 680 (9th Cir. 2006) (quoting 28 U.S.C. § 1332(d)(2)). CAFA
23 expressly provides that the claims of individual members shall be aggregated to determine the
24 amount in controversy. 28 U.S.C. § 1332(d)(6). Plaintiffs have not challenged removal and concede
25 in their Second Amended Class Action Complaint that the Court has jurisdiction under CAFA. (See
26 Docket Item No. 47.)

27 Having reviewed the papers and evidence submitted in conjunction with the parties’ motions
28 for summary judgment, the Court is doubtful as to whether the amount of damages sought by

1 Plaintiffs exceeds the jurisdictional threshold of \$5,000,000. Of particular concern to the Court are
2 the relatively small amounts by which each of the named Plaintiffs alleges to have been overcharged
3 by Defendant. For example, named Plaintiff Howard Stern testifies by declaration that in certain
4 months he was only overcharged by a couple of dollars:

5 [M]y AdWords campaign ran for 4 days in the month of September 2005. During
6 that time my daily budget was set at \$10. Google should have charged me at
7 most, \$40. In fact, it charged me over 8% more (\$43.25). In December 2005 my
AdWords campaign ran for 2 days and my daily budget was \$10. I should have
been charged \$20 by Google. In fact, it charged me over 6% more (\$21.28).

8 (Declaration of Howard Stern in Support of Plaintiffs' Motion for Partial Summary Judgment,
9 Docket Item No. 83, ¶ 6.) If such claims are typical of other class members, even with a class
10 comprised of thousands, the amount in controversy requirement is not satisfied.

11 Accordingly, the Court orders the parties to show cause why the case should not be
12 remanded for lack of jurisdiction. A hearing on this matter is set for **November 20, 2006 at 9:00**
13 **a.m.** The parties shall submit opening briefs no later than November 8, 2006. Any reply briefs shall
14 be filed no later than November 13, 2006. The hearing on the parties' motions for summary
15 judgment is continued to **January 22, 2007 at 9:00 a.m.** Additionally, the case management
16 conference currently scheduled for November 6, 2006 is continued to **January 22, 2007 at 10:00**
17 **a.m.**

18
19 Dated: October 30, 2006



JAMES WARE
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**
2 Christopher M. Jhang cjhang@perkinscoie.com
3 David T. Biderman dbiderman@perkinscoie.com
4 Judith B. Gitterman gittj@perkinscoie.com
5 Lester L Levy llevy@wolfpopper.com
6 Lisa Delehunt ldelehunt@perkinscoie.com
7 Michele Fried Raphael mraphael@wolfpopper.com
8 Ryan M. Hagan rhagan@alexanderlaw.com
9 William M. Audet waudet@alexanderlaw.com

10
11 **Dated: October 30, 2006**

12 **Richard W. Wieking, Clerk**

13 **By: /s/ JW Chambers**
14 **Elizabeth Garcia**
15 **Courtroom Deputy**